

Land reform in process: yet another step forward

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Hopefully, with the newly adopted Land Code, or «the Small Constitution», as it is often referred to, the processes of land privatization in Ukraine will gain clarity, the necessary legal framework, consistency and dynamics that they have lacked for years.

The issue of land ownership has always been painful throughout the Ukrainian history, as practically all major clashes, for instance, of the late XIX century, were about the ownership of land.

During the Soviet times Ukraine was referred to as the country's «bread-basket». According to the 1993 statistics, Ukrainian agrarian sector produced 25% of the total turnout, specializing mainly in sugar beets, potatoes, milk, meat and wheat. Nowadays, the country that always used to feed itself and its neighbors is barely able to support the needs of its own population. The general economic crisis made agriculture loss-making. The slow and inconsistent land reform can be seen as one of the reasons accounting for the near collapse of the Ukrainian agrarian sector.

Generally, the process of land reform have been on since the late 1990s. Yet, the issue of privatizing land by those who work on it has not been solved, regardless of numerous presidential decrees and resolutions of the government and the parliament on the sensitive issue.

The process of privatization of land in Ukraine began with the resolution of the Verkhovna Rada, the parliament, «On the Land Reform», issued on December 18, 1990. The document determined the key tasks of the land reform as «redistribution of land, with simultaneous transfer of them to private and collective ownership, and for the use by enterprises, institutions and organizations for the purpose of creating conditions for equal rights of development of various forms of economy on the land, for the formation of multiple forms of economy, rational usage and protection of lands.» Thus, the start of the «multiple forms of economy» was made. The next logical step towards the land reform was the adoption of the Land Code on March 13, 1992. Although far from perfect, the Code was designed to create a framework for sales of privatized land plots. Yet, it contained multiple reservations: for instance, it gave preferential right to buy land to the insiders and co-owners and prohibited sale of privatized land for six years. During the premiership of Leonid Kuchma, his Cabinet issued a decree «On Privatization of Land Plots» that specified terms and conditions of privatization of land and allowed privatization of small land plots for housing and private use.

Another step was made by the decree of President of Ukraine Leonid Kuchma «On Urgent Measures for Acceleration of the Land Reform» issued on November 10, 1994. The document caused agitated debates in the parliament: the left-wingers announced that «private ownership of land is a step back in the global civilization» and were prepared to talk only about privatization of small land plots adjacent to private houses. Then Speaker of the Verkhovna Rada Oleksandr Moroz argued, when meeting representatives of the Ukrainian diaspora in Poland, that «sale of land in Ukraine equals losing it» (UNIAN, November 30, 1994). The presidential decree published shortly before that provided that «privatization of land that are being used by agrarian enterprises and organizations is the urgent measure in the pursuit of the land reform in Ukraine», and that «the land should be transferred to collective and private ownership for the agrarian production, on voluntary grounds, assuming that the land should belong to those who work on it.» According to the decree, each member of an enterprise or a cooperative society was entitled to a land certificate that specified the size and the cost of the relevant land plot. The innovation of the decree was the provision that «the right to own a land plot may be the object of trade, giving, exchange, inheritance, or may be used as a collateral».

The debates over the land privatization were the hot issue of parliamentary discussions in 1995, when the MPs blocked the revision of the 1992 Land Code. Leonid Kuchma's antagonist, Speaker Oleksandr Moroz announced on November 15, 1995, that «the proposed changes to the Land Code of Ukraine are in fact limited to trading in land, which would destroy the land relations» and alleged that those changes would «deprive of their property not only collective farms, but also farmers and individuals;

the provision introduces the mechanism of buying land from the owner, for today the majority of farms have been brought to the verge of bankruptcy and cannot afford buying out their own land plots» (UTN, November 15, 1995). Interestingly, the Speaker's opinion coincided with that of the extreme right forces: for instance, MPs from the radical UAN-UNSO argued that «if we approve the changes and amendments to the Land Code, we will give foreigners a possibility to receive the last what Ukraine still has – the land» (UTN, November 15, 1995).

An important development of the land reform was the adoption of the new Constitution in June 1996. Article 14 of the Constitution of Ukraine guaranteed the right to own land and stipulated that the right could be gained and exercised by citizens, legal entities and the state only based on the law.

Another document that provoked agitated debates was the presidential decree of December 3, 1999, «On Urgent Measures for Accelerating the Reform of the Agrarian Sector of the Economy» that declared the goal of speeding up the land reform based on private ownership of land. The reform of collective farms into privately-owned entities was supposed to take place by means of providing all members of collective agrarian enterprises with the right to go out of the enterprise freely and take their land plots and property shares with them. The collective agrarian enterprises were expected to be transformed into private ventures and other entities based on private ownership of land. Therefore, the new Code ended more than 50 years of collective farming in Ukraine.

According to the Ministry of Agrarian Policy, by March 2000 almost 11,000 agrarian companies changed their form of ownership (i.e., became private). However, 86% of owners of land certificates lease their land instead of processing it themselves. The former collective and state farms served as the basis for over 15 thousand of new agrarian entities.

For years, the agrarian reform had been blocked by the lack of proper legal mechanisms. In 1994, the leader of Socialists Oleksandr Moroz argued that «the land relations in Ukraine should be regulated by laws, and not by the presidential decrees. One person does not have a right to take responsibility for solving such critical issues.» In this case we can agree with him. Obviously, no decree can be a solution for the situation in the agrarian sector, as it would be impossible to use it as a tool for solving multiplies questions of trading in land, let alone addressing related social issues. However, there was a political paradox: the processes of creation of a legal framework for the land reform did not find much enthusiasm and support in the parliament, and the adoption of the Land Code was blocked. Yet, from the very start of positioning themselves as market advocates, a number of Ukrainian politicians began arguing in favor of making land the object of trade. The issue of ownership of land occupied a permanent place in electoral rhetoric. Most of centrists spoke strongly in favor of private ownership of land – not only as a way for improving the situation of the agriculture but also as an argument in favor of Ukraine's European integration. Politicians stressed the urgent need for agrarian reform as a potentially profitable branch. For instance, the People's Democratic Party's 1998 election program claimed that «the land is the property of those who work on it». Official statements of all mainstream political parties referred to the land reform in the context of their usual (and vague) pro-market slogans. The United Social Democrats SDPU(o), for instance, proposed that the reforms in general and in the agrarian sector in particular should start with improvement of the taxation system, streamlining the tax collection mechanisms and introduction of the principle of equity of all forms of ownership. At the same time the SDPU(o) protested against «ruination of the Ukrainian village» and «unjust privatization», and advocated state support for the agrarian sector, and balancing prices for industrial and agrarian products.

A specific view was expressed by the Ukrainian People's Rukh. According to the Rukh's 1998 election program, «privatization in Ukraine so far has taken place in the interests of the Mafiosi clans and corrupt bureaucrats». Therefore, the Rukh claimed that its task was to ensure that privatization was pursued in the interests of all citizens of Ukraine, that an «effective owner» was found to take care of the property, and that the property would remain «in the hands of the Ukrainian people».

The Communists and the block of Socialists and Peasants had an opposite solution. According to the block of Socialists and Peasants («For Truth, for the People, for Ukraine!», trading in agricultural land was dismissed as «unquestionably unacceptable». The politicians of the block, aware of the value of Ukrainian fertile black soil, argued that the challenge was possible sale of land resources to foreigners. The Communists also gave a key role to the land issue in their agendas and promised that «a peasant will be able to work in a collective farm, a state farm or a private farm, [and] get a proper award for his

labor.»

The debates over the introduction of the new Land Code displayed a broad variety of views and interests. «Selling land is selling the Motherland!», read the slogan displayed by Communist MPs on October 25, 2001 during the debates in the parliament. On that day the work of the parliament was disrupted by representatives of left-wing factions. The confrontation culminated, when Communists damaged the electronic voting system of the Verkhovna Rada and the MPs had to vote in a traditional old way by using signed ballots and ballot-boxes. Notwithstanding the passions and an hours-long protest demonstration by left-wing MPs, the Land Code was adopted by votes of 232 MPs, with just 2 votes against and no abstentions.

The new Land Code provides for private ownership of land but introduces a 5-year moratorium on trading in land. According to the Code, no more than 100 hectares of land can be sold by one person in 2005-2010. Furthermore, the Land Code introduced a 20-year moratorium on selling land to foreigners.

The President of Ukraine referred to the adoption of the Land Code as a true victory. Prime Minister Anatoly Kinakh commented on it as «an important historic event», emphasizing that the adoption of the Land Code is «an integral part of integration to the European community» (UNIAN, October 26, 2001).

The Ukrainian left-wingers chose to stick to their line and promised to file a protest against the new law with the Constitutional Court, claiming that voting by ballots was a violation of the procedure. A long-standing communist activist Georgy Kriuchkov announced that although the Ukrainian power-holders had succeeded, «the CPU will explain to the people what has happened and will show that the Communists were struggling till the very end and even resorted to extreme methods».

It is likely that the work over the Land Code will continue. For instance, head of the Accounting Commission of the parliament Volodymyr Zayets does not exclude a possibility that after Leonid Kuchma signs the Land Code the parliament will have to return to the document to introduce necessary amendments.

During the forthcoming election campaign, the issues of the land reform and privatization of land will be on the top of the lists of slogans and election rhetoric of a variety of political forces, particularly the Communists, the Socialists and representatives of some peasant parties. One may only imagine the emotions and passion with which likely amendments to the new Code will be passed. Hence, the issue of the land reform is bound to remain on the agenda.